

## **REMARKS**

Reconsideration in view of the foregoing amendments and the following remarks, is respectfully requested. Moreover, the applicant has reviewed the First (Non-Final) Office Action of May 22, 2006, and submits that this paper is responsive to all points raised therein.

### **I. Status of the Claims**

Claims 1-15 are pending in the instant Patent Application. Claims 1, 2, 7, 8, 14 and 15 have been amended. Support for the amendments to claims 1, 7 and 15 is found, for example, in Drawing Figures 1A-2E. Claims 2 and 8, dependent on claims 1 and 7, respectively, have been amended, to be consistent with the amendments made to claims 1 and 7, respectively. Support for the amendments to claim 14 is found, for example, in Drawing Figures 4A-4E.

### **II. Allowable Subject Matter**

The applicant notes the allowable subject matter of claims 5, 6 and 11-13, as these claims have been objected to.

### **III. Rejections Under 35 USC 102(b)**

Claim 1 was rejected under 35 USC 102(b) as anticipated by Cones (U.S. Patent No. 4,509,742) (Cones '742).

Claim 1 has been amended to include recitations to a seat that is positioned rearward and at least substantially horizontal with respect a flywheel. The flywheel includes bores for receiving a first lever for being releasably mounted therein. As a result of this structure, for example, the user sits so as to impart a lateral pushing force to the first lever.

Cones '742 is directed to a bicycle-type exerciser, where the seat is above or vertically oriented with respect to the flywheel. As a result of this structure, a user imparts a downward force on the pedals, using different muscles when compared to the lateral pushing force, resulting from the structure of claims 1.

Based on the above, Cones '742 shows a structure completely different from that claimed and as such, can not anticipate claim 1 under 35 USC 102(b). Accordingly, it is respectfully requested that claim 1 is allowable over this reference.

Claims 1-4, 7-10, 14 and 15, were rejected under 35 USC 102(b) as anticipated by Butler (U.S. Patent No. 5,316,532) (Butler '532).

Claims 1 and 7, as amended, include recitations to a flywheel that includes bores for releasably mounting to a first lever on one side of the flywheel, and a rotatable member of a hub that imparts rotational motion to the flywheel. There is also a crank in operative communication with the rotatable member of the hub. Claim 15 is a method claim including similar recitations.

Butler '532 discloses an aquatic exerciser with two inner and two outer concentrically interconnected disks, each adapted with receptors 48, for accommodating extenders to reach an appendage (arm or leg or portion thereof, if the user is an amputee). Each appendage rotates a corresponding disk pair, for separate exercise of both appendages.

This is unlike the structure recited in claims 1 and 7, where a single flywheel, includes structure, to be moved by both appendages. By both appendages moving the flywheel, the appendage in need of rehabilitation can be moved at the desired range of motion, by contact between the appendage and the first lever on one side of the flywheel, with the motion on the flywheel provided from the crank, on the other side of the flywheel.

Based on the above, Butler '532 shows a structure completely different from that claimed and as such, can not anticipate claims 1, 7 and 15 under 35 USC 102(b). Accordingly, it is respectfully requested that claims 1, 7 and 15 are allowable over this reference.

Since claims 1, 7 and 15, are not anticipated by Butler '532 under 35 USC 102(b), claims 2-4 and 8-10, respectively dependent thereon, are also not anticipated under 35 USC 102(b) by Butler '532 for the same reasons. These claims further distinguish the invention from this cited art.

Claim 14, as amended, recites a flywheel with bores extending through both faces of the flywheel, for receiving a lever on either face.

Butler '352 has been discussed above, that discussion is applicable here. Additionally, Butler '352 fails to show that the receptors 48 on one side of a single disk for receiving the same structure on the other side of the same disk.

For this reason, Butler '352 shows a structure completely different from that claimed and as such, can not anticipate claim 14 under 35 USC 102(b). Accordingly, it is respectfully requested that claim 14 is allowable over this reference.

#### IV. Conclusion

The applicant notes the Examiner's citations of Butterworth (U.S. Patent No. 6,589,139), Saringer, et al. (U.S. Patent No. 5,860,941) and Scelta, et al. (U.S. Patent No. 5,580,338) to complete the record.

Should the Examiner have any question or comment as to the form, content or entry of this paper, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Allowance of all pending claims, 1-15, is respectfully requested.

Applicant believes no other fees are currently due, however, if any fee is deemed necessary in connection with this Amendment and Response, please charge Deposit Account No. 12-0600.

Respectfully submitted,

LATHROP & GAGE, LC

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